

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

ROBERT W. SMITH, JR.,)	
)	
Plaintiff,)	
)	
v.)	1:05CV00439
)	
MR. JOHN K. MOTSINGER, SR., et al.)	
)	
Defendants.)	

ORDER

On May 20, 2005, the United States Magistrate Judge's Recommendation was filed and notice was served on the parties pursuant to 28 U.S.C. § 636. Plaintiff filed objections to the Recommendation within the time limit prescribed by Section 636.

The Court has reviewed plaintiff's objections de novo and finds they do not change the substance of the United States Magistrate Judge's rulings which are affirmed and adopted.

IT IS THEREFORE ORDERED that this action is dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B) for being frivolous or malicious or for failing to state a claim upon which relief may be granted, as well as for seeking monetary relief against a defendant who is immune from such relief.

IT IS FURTHER ORDERED that for the same reasons given for dismissal, the Court finds that any appeal would not be in good faith and permission to proceed on appeal in forma pauperis is denied pursuant to 28 U.S.C. § 1915(a)(3) and Fed. R. App. P. 24.

This the day of July 5, 2005

/s/ N. Carlton Tilley, Jr.
United States District Judge